

**From:** Darrell Michaud  
**To:** Microsoft ATR  
**Date:** 1/27/02 11:09pm  
**Subject:** Microsoft Settlement

Dear Judge Kollar-Kotelly,

In accordance with the Tuney act I would like to offer my humble opinion regarding the proposed Microsoft Settlement.

I believe that many parts of Section III, Prohibited Conduct, are well-intended but contain enough technological loopholes for Microsoft to render them ineffective.

Prohibited Conduct A.1 and A.2 are meaningless as a remedy because Microsoft no longer needs to retaliate against OEM distributors directly to maintain its monopoly. Over the past few years Microsoft has introduced deliberate technical devices to prevent its software from being used in dual-boot environments. Even if a distributor wishes to create dual-boot options for their customers and is protected from direct retaliation, Microsoft still retains the technological means to prevent dual-boot solutions from being competitive.

Prohibited Conduct C (all numbered items) suffers from the same flaw. The proposed judgement states:

"Microsoft shall not restrict BY AGREEMENT any OEM licensee.." (emphasis added)

There is nothing said about technological restrictions that accomplish the same ends as the prohibited conduct.

Just as Microsoft was able to circumvent the spirit of the Supreme Court's judgement through technological means (ie, integrating their web browser into the Windows(TM) Operating System), so too will they circumvent the spirit of this proposed remedy.

Until Microsoft is restricted from both agreement/contract retaliation and technological retaliation, they can continue to leverage their monopoly illegally.

Thank You,

Darrell Michaud

